

REMARKS

This is in response to the Office Action mailed on October 21, 2004, and the references cited therewith.

Claims 10, 11, 14, 20, and 21 are amended, claims 1-9 and 27-28 are canceled, and claims 29-32 are added; as a result, claims 10-26 and 29-32 are now pending in this application.

§102 Rejection of the Claims

Claims 10-15, 19 and 20-22 were rejected under 35 USC § 102(b) as being anticipated by Rapoport (U.S. Patent No. 5,598,845). The '854 patent lists Chandraratna as inventor, not Rapoport, however the text of the rejection appears to refer to Rapoport (5,957,934). Applicant assumes that this was the reference intended.

The rejection states that in Rapoport, "the insertion guide is mounted to a base or support frame 23 and the movement of the insertion guide is controlled via remote control module or control computer 90."

Rapoport appears to show "a support frame 23 which is removably fixed to a portion of the surgical securing frame 22 used to secure the patient in the desired operating position" (col. 7, lines 23-25). Rapoport does not show a base having an affixation device to mount on a patient surface.

In contrast, claim 10 as amended includes a base having an affixation device to mount on a patient surface. Further in contrast, claim 20 as amended includes coupling a base directly to a patient surface. Support for this amendment is found in the specification in general, and specifically on page 6, lines 24-25.

Because the Rapoport reference does not show every element of Applicant's independent claims, a 35 USC § 102(b) rejection is not supported. Reconsideration and withdrawal of the rejection is respectfully requested with respect to Applicant's independent claims 10 and 20. Additionally, reconsideration and withdrawal of the rejection is respectfully requested with respect to the remaining claims that depend therefrom as depending on allowable base claims.

§103 Rejection of the Claims

Claims 16 and 17 were rejected under 35 USC § 103(a) as being unpatentable over Rapoport, as applied to claims 10 and 13 above, and further in view of Truwit (U.S. Patent No. 5,993,463). Claims 18 and 23-26 were rejected under 35 USC § 103(a) as being unpatentable over Rapoport (U.S. Patent No. 5,598,845), as applied to claims 10 and 13 above, and further in view of Lee (U.S. Patent No. 3,893,449).

Applicant respectfully submits that the additional references of Truwit, and Lee fail to cure the rejection based on Rapoport as outlined above. Because the cited references, either alone or in combination, do not show every element of claims 16-18, and 23-26, a 35 USC § 103(a) rejection is not supported by the references. Reconsideration and withdrawal of the rejection is therefore respectfully requested with respect to claims 16-18, and 23-26.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6944 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

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By their Representatives,

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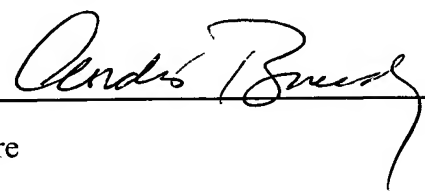
Date 1-19-05

By 
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 19 day of January, 2005.

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